

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to

All Cases

**DECLARATION OF M. JOSEPH
WINEBRENNER IN SUPPORT OF
REPLY MEMORANDUM IN
SUPPORT OF DEFENDANTS'
MOTION TO EXCLUDE
PLAINTIFFS' EXPERT
DR. YADIN DAVID**

I, M. Joseph Winebrenner, declare as follows:

1. I am an attorney at Faegre Baker Daniels LLP, and one of the attorneys representing 3M Company (“3M”) and Arizant Healthcare Inc. (“Arizant”) (collectively “Defendants”) in this litigation. I submit this Declaration in support of the Reply Memorandum in Support of Defendants’ Motion to Exclude Plaintiffs’ Expert Dr. Yadin David. Unless otherwise stated, the facts set forth herein are based upon my personal knowledge, information, and belief.

2. Attached as **Exhibit 11** are true and correct copies of excerpts of the deposition testimony of Yadin David, taken in this action on August 1, 2017.

3. Attached as **Exhibit 12** is a true and correct copy of the publicly available Meeting Roster for the April 11, 2013 FDA Device Good Manufacturing Practice Advisory Committee Meeting, available at: <https://wayback.archive-it.org/7993/20170406211709/https://www.fda.gov/downloads/AdvisoryCommittees/Com>

mitteesMeetingMaterials/MedicalDevices/DeviceGoodManufacturingPracticeAdvisoryCommittee/UCM347410.pdf (last accessed October 17, 2017).

4. Attached as **Exhibit 13** are true and correct copies of excerpts of the publicly available transcript of the April 28, 1998 FDA Orthopedics and Rehabilitation Devices Advisory Panel Meeting, available at:

<https://www.fda.gov/ohrms/dockets/ac/98/transcpt/3416t2.pdf> (last accessed October 17, 2017).

5. Attached as **Exhibit 14** is a true and correct copy of the publicly available Meeting Roster for the May 4, 2007 FDA General Hospital and Personal Use Devices Advisory Panel meeting, available at: https://wayback.archive-it.org/7993/20170404051118/https://www.fda.gov/ohrms/dockets/ac/07/roster/2007-4302r1_draft.pdf (last accessed October 17, 2017).

6. Attached as **Exhibit 15** is a true and correct copy of the publicly available Meeting Roster for the August 9, 2005 FDA General Hospital and Personal Use Devices Advisory Panel meeting, available at: https://wayback.archive-it.org/7993/20170404061601/https://www.fda.gov/ohrms/dockets/ac/05/roster/2005-4172r1_01_PANAL%20PARTICIPANT.pdf (last accessed October 17, 2017).

7. Attached as **Exhibit 16** are true and correct copies of excerpts of the publicly available transcript for the September 14, 1998 FDA General Hospital and Personal Use Devices Advisory Panel Meeting, available at:

<https://www.fda.gov/ohrms/dockets/ac/98/transcpt/3452t1.pdf> (last accessed October 17, 2017).

8. Attached as **Exhibit 17** is a true and correct copy of the publicly available FDA General Hospital and Personal Use Devices Advisory Panel Questions for May 4, 2007, available at: https://wayback.archive-it.org/7993/20170404051120/https://www.fda.gov/ohrms/dockets/ac/07/questions/2007-4302q1_draft.pdf (last accessed October 17, 2017).

9. Attached as **Exhibit 18** is a true and correct copy of the publicly available FDA General Hospital and Personal Use Devices Advisory Panel's Draft Panel Questions for August 9, 2005, available at: https://wayback.archive-it.org/7993/20170404061608/https://www.fda.gov/ohrms/dockets/ac/05/questions/2005-4172q1_01_draft.pdf (last accessed October 17, 2017).

10. Attached as **Exhibit 19** is a true and correct copy of Defendants' Motion to Exclude the Testimony of Yadin David, Ed.D., *Stevens v. Stryker*, No. 3:12-cv-00063-bbc, ECF No. 117 (W.D. Wis. June 14, 2013).

11. Attached as **Exhibit 20** is a true and correct copy of Plaintiffs' Memorandum in Opposition to Stryker's Motion to Exclude the Testimony of Yadin David, *Stevens v. Stryker*, No. 3:12-cv-00063-bbc, ECF No. 150 (W.D. Wis. June 14, 2013).

12. Attached as **Exhibit 21** is a true and correct copy of the ISO 14971 standard (2007).

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 17, 2017

s/M. Joseph Winebrenner
M. Joseph Winebrenner

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